

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 688 – SB 1482

February 15, 2023

SUMMARY OF BILL: Expands the offense of reckless endangerment to include an act committed against a population within a geographic territory by members of a criminal gang that regularly engages in gang-related conduct or has a pattern of criminal gang activity and the commission of the offense is gang-related.

Requires a court to prohibit a person sentenced to probation for such an offense from entering the geographic territory in which the offense was committed, for the duration of the person's sentence. Requires revocation or prohibition of issuance of a driver license for a period of five years from the date of conviction of such offense. Authorizes application for issuance of a restricted license upon release from confinement, and if granted, payment of \$65 in application fees to the Department of Safety (DOS) for a restricted driver license.

Adds reckless endangerment that is committed against a population within a geographic territory by members of a criminal gang to the list of offenses a homeowner's association, neighborhood association, neighborhood watch or similarly organized residential entity is authorized to seek an injunction or restraining order prohibiting an offender who meets outlined criteria from entering the boundaries of the residential area.

FISCAL IMPACT:

Increase State Expenditures – \$8,500 Incarceration

Other Fiscal Impact – To the extent that the required modifications to the Department of Safety's A-List system can be accomplished within available resources provided under the current vendor contract, the proposed legislation will not result in a significant increase in state expenditures. Otherwise, those modifications could result in a one-time increase in state expenditures of up to \$29,000 in FY23-24.

Assumptions:

- Tennessee Code Annotated § 39-13-103(a) establishes that a person commits reckless endangerment who recklessly engages in conduct that places or may place another person in imminent danger of death or serious bodily injury.
- Pursuant to § 39-13-103(b):
 - Reckless endangerment is a Class A misdemeanor.

HB 688 – SB 1482

- Reckless endangerment committed with a deadly weapon is a Class E felony.
- Reckless endangerment by discharging a firearm or antique firearm into a habitation is a Class C felony, unless the habitation was unoccupied at the time of the offense, in which event it is a Class D felony.
- Reckless endangerment by discharging a firearm from within a motor vehicle is a Class C felony.
- In addition to such authorized penalties, the court shall assess a fine of \$50.00.
- The proposed legislation expands the offense of reckless endangerment to include an act committed against a population within a geographic territory by members of a criminal gang that regularly engages in gang-related conduct or has a pattern of criminal gang activity and the commission of the offense is gang-related.
- Per the language of the legislation, reckless endangerment related to criminal gang activity is punishable as a Class C felony and revocation or prohibition of issuance of a driver license for a period of five years from the date of conviction of such offense. A defendant is authorized to apply for issuance of a restricted license upon release from confinement, and if granted, pay \$65 in application fees to the DOS for a restricted driver license.
- This analysis assumes individuals charged with reckless endangerment related to criminal gang activity pursuant to this legislation would be charged with a Class D felony offense of reckless endangerment committed by discharging a firearm into an unoccupied habitation, pursuant to Tenn. Code Ann. § 39-13-103(b)(3) under current law.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 1.1 admissions in each of the last 10 years for the Class D felony offense under Tenn. Code Ann. § 39-13-103(b)(3) for reckless endangerment committed by discharging a firearm into an unoccupied habitation, with an estimated average time served of 1.03 years, after adjusting for pre-trial jail credits.
- The average time served for a Class C felony is 1.63 years.
- Accounting for recidivism rates, the proposed legislation will result in 0.75 admissions annually serving an additional 0.6 years (1.63 – 1.03).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ -	FY23-24
\$ 8,300	FY24-25
\$ 8,500	FY25-26

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring cost increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$8,500.

- The proposed legislation will require some changes to the DOS' A-List software system. It is assumed that these modifications can be accomplished by the vendor under the current contractual agreement without a need for additional expenditures; therefore, any fiscal impact to DOS is estimated to be not significant.
- However, if the scope of work required by this and other legislation subsequently enacted exhausts the relevant contract provision, the proposed legislation could result in an increase in state expenditures up to \$29,000 in FY23-24.
- Any impact on state revenue associated with revocation or prohibition of issuance of driver licenses or issuance of restricted licenses is estimated to be not significant.
- Adding reckless endangerment that is committed against a population within a geographic territory by members of a criminal gang to the list of offenses a homeowner's association, neighborhood association, neighborhood watch or similarly organized residential entity is authorized to seek an injunction or restraining order prohibiting an offender who meets outlined criteria from entering the boundaries of the residential area will primarily impact private entities and will not have a significant impact on the court system.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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